

**Board of Forestry and Fire Protection
Title 14 of the California Code of Regulations**

[Notice Published February 7, 2011]

15 - Day Notice

MODIFICATIONS TO TEXT OF PROPOSED REGULATION

Special Conditions Requiring Disapproval of Plans, 2010

PUBLIC HEARING DATE

Pursuant to the requirements of Government Code § 11346.8(c), and Title 1 of the California Code of Regulations § 44, the State Board of Forestry and Fire Protection (Board) is providing notice of changes made to proposed regulations listed below which were the subject of regulatory hearings on September 8, 2010, and October 6, 2010. These changes are being proposed in response to direction given by the Board at the February 2, 2011, Board meeting.

The Board will hold a public hearing to consider adoption of final rule language. **The public hearing is to be held 8:00 a.m. on Wednesday March 2, 2011, at the Resources Building Auditorium, 1st Floor, 1416 Ninth Street, Sacramento, California.**

MODIFICATIONS TO TEXT OF PROPOSED REGULATION

The Board is providing notice of changes made to the proposed regulations publicly noticed for a 45 Day review on July 23, 2010, and September 14, 2010, affecting

Title 14, Division 1.5, Chapter 4, of the California Forest Practice Rules

§ 898.2. Special Conditions Requiring Disapproval of Plans.

PUBLIC COMMENTS

At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in this 45-Day Notice and subsequent 15 Day notices. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record.

Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. **The written comment period ends at 5:00 P.M., on Monday February 28, 2011.** The Board will consider only written comments received at the Regulations Coordinator Office by that time (in addition to those comments received at the public hearing). The Board requests, but does not require, that persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments may be submitted by U.S. mail to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered or sent by courier to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:

(916) 653-0989

Written comments may also be delivered via e-mail at the following address:

board.public.comments@fire.ca.gov

UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board held public hearings on September 8, 2010 and October 6, 2010, to provide the public an opportunity to comment on this regulation. During this hearing, the Board received comments from the public both in writing and in testimony. The Board considered all written and oral comments before it. The

Board discussed the comments received and determined they wished to amend the regulation in 14 CCR 898, subsection (i) offered at the hearings.

The Board directed staff to prepare a proposal, as stated in this 15 Day Notice, that amends the language previously proposed by adding a new sentence: "The Director's determination of this special condition shall be supported by a review from the California Geological Survey." This amendment specifies that when implementation of the plan would result in significant adverse slope stability impacts that could affect public safety, the Director's decision to disapprove the plan shall be supported by a review from the California Geological Survey. This amendment makes clear that the Director of CAL FIRE has the discretion to make the decision to disapprove a plan and that the Director's decision shall be informed by information from the California Geological Survey.

The Board directed staff during the February 2, 2011, Board meeting to provide potential changes to the regulatory language to the public in a 15-day notice pursuant to GC § 11346.8(c). The Board may adopt any one individual proposed change, a selected group of the proposed changes, or all of the proposed changes. The means of identifying the proposed changes are below.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the *Initial Statement of Reasons*, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire Protection
P.O. Box 944246
Sacramento, CA 94244-2460
(916) 653-9418

The designated backup person in the event Mr. Zimny is not available is George Gentry, California Department of Forestry and Fire Protection, at the above address and phone number (916) 653-8007.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the original proposed action as stated in the 45 Day notice using UNDERLINE to indicate an addition to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at the following address:

California Department of Forestry and Fire Protection
Resources Building
Room 1517
1416 9th St.
Sacramento, CA 94816
Attention: Christopher Zimny
Tel: (916) 653-9418

All of the above referenced information is also available on the Board website:

<http://www.fire.ca.gov>

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised.

Changes made to the text notice in the 45-Day notice of rulemaking published on July 23, 2010, were modified in a 15 Day Notice of Rulemaking published on September 14, 2010. The express terms of the modifications of the originally proposed action are shown by DOUBLE UNDERLINE to indicate an addition to the California Code of Regulations and ~~DOUBLE STRIKETHROUGH~~ to indicate a deletion.

Changes made to the text notice in the 15-Day notice of rulemaking on September 14, 2010, have been modified in this 15 Day Notice of Rulemaking. The express terms of the modifications of the proposed under this action are shown by using Dashed UNDERLINE to indicate an addition to the California Code of Regulations and ~~DOUBLE STRIKETHROUGH~~ to indicate a deletion.

Text presented in this notice are summarized as follows:

Existing CCR Text ----- No underline or strikethrough

Deletion of text made in the 45-Day Notice published on 7/23/10 -- ~~single strikethrough~~

Additions of text made in the 45-Day Notice published on 7/23/10 ----- single underline

Deletions of text made in the 15-Day Notice published on 9/14/10 ---- ~~double strikethrough~~

Additions of text made in the 15-Day Notice published on 9/14/10 ----- double underscore

Deletions of text made in the 15-Day Notice published on 2/7/11 ---- ~~double strikethrough~~

Additions of text made in the 15-Day Notice published on 2/7/11 ----- dashed single underscore

Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

/s/ Christopher Zimny

Christopher Zimny
Regulations Coordinator
California Department of Forestry and Fire Protection